

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Autozone Parts, Inc.,

Plaintiff,

Civ. No. 09-351 (RHK/RLE)
ORDER

v.

Joel Barrick, d/b/a Minnesota Auto Zone,

Defendant.

On July 24, 2009, the Court issued an Order (Doc. No. 13) granting Plaintiff's Motion for Entry of Default Judgment. Plaintiff later filed a Motion for Attorney Fees (Doc. No. 16), seeking to recover \$11,830.50 in fees incurred in this action. On August 25, 2009, the Court ordered Defendant to respond to that Motion on or before September 4, 2009.

The Court has now received a letter from Defendant (attached hereto), dated September 2, 2009, in which he contends that the parties had reached a settlement prior to the entry of the default judgment and that he was unaware that Plaintiff had sought such relief. Accordingly, he asks the Court to vacate the default judgment and deny Plaintiff's Motion for Attorney Fees.

Based on the foregoing, and all the files, records, and proceedings herein, **IT IS ORDERED** as follows:

1. The Clerk of the Court is **DIRECTED** to file the attached letter, which the

Court construes as a Motion for Relief from Judgment under Federal Rule of Civil Procedure 60;

2. Plaintiff shall serve and file a response to the (so-construed) Motion on or before September 21, 2009. Defendant shall serve and file a reply, if any, on or before September 28, 2009; and

3. The Clerk of the Court is **DIRECTED** to mail a copy of this Order to Defendant at 51101 307th Avenue NW, Cass Lake, Minnesota 56633.

Dated: September 10, 2009

s/Richard H. Kyle

RICHARD H. KYLE

United States District Judge